



**Department of  
Education**

**Dennis M. Walcott**  
*Chancellor*

**Kathleen Grimm**  
*Deputy Chancellor*

June 4, 2013

Ms. Judith Enck  
Regional Administrator  
United States Environmental Protection Agency  
Region 2  
290 Broadway  
New York, NY 10007-1866

Dear Regional Administrator Enck:

I write to provide you with an important update concerning our PCB programs, and also in response to your May 13, 2013, letter on our reoccupancy protocols.

First, as you know, on May 21, 2013, we announced our settlement of a federal citizen suit brought by New York Communities for Change concerning the timeline for removing light fixtures that use or have used PCB light ballasts ("PCB Light Fixtures"). Pursuant to the terms and conditions of this judicially enforceable consent order, we must remove all PCB Light Fixtures by December 31, 2016. This summer alone, we expect to complete light fixture replacement projects in at least 105 school buildings. Second, on May 24, 2013, we submitted to EPA our Summary Report and Preferred Remedy, which is the penultimate document following our multi-year pilot study. We are confident that this document provides a rigorous assessment of the detailed technical work conducted by our agencies over the past three years and we look forward to engaging in further discussions with your agency, as well as with the peer reviewers and the public, to work through the many remaining technical challenges. We look forward to engaging in the process set forth in Stage 2 of the CAFO.

This leads to a third and final point. We have reviewed your May 13, 2013, letter concerning our reoccupancy protocols. We appreciate that your staff has concluded that these rigorous measures – which far exceed the requirements of the TSCA regulations – are appropriate for responding to releases from light fixtures. However, we respectfully disagree with your assessment of these protocols for purposes of reoccupancy. Our disagreement centers on your recommendation regarding air testing. As you are aware, and as your staff has confirmed on numerous occasions, there are no federal requirements or regulations concerning air sampling for PCBs for purposes of reoccupancy. Further, given our experience with air testing, we also have significant technical and operational concerns with your recommended approach.

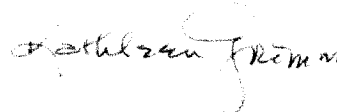
PCB air testing results can be problematic to interpret because such point sampling does not account for the potentially significant seasonal and spatial variability routinely seen in PCB indoor air concentrations, which are not attributable to a single source (e.g., a ballast failure event) as evidenced by air measurements collected during the Pilot Study. Seasonal and spatial variability is important to consider when assessing exposure to building occupants. In addition, EPA's school indoor air guidance values were developed assuming chronic (i.e., lifetime) exposures to a highly toxic and highly chlorinated mixture of PCB congeners. Actual exposures during the planned replacement work will be of a less-than-lifetime (i.e., subchronic) nature and to a mixture of PCBs that is of a less chlorinated and less toxic composition. Therefore, comparison of measured air concentrations to EPA's school indoor air PCB guidance values could cause unnecessary anxiety to the school community and needless disruption of essential educational programs.

Similarly, we are also concerned about the doubts you have expressed concerning the use of wipe sampling. We continue to believe that wipe sampling plays an important part in assessing key potential exposure routes following a ballast failure outside the fixture, or in a smoke condition. Thus, we plan to continue to implement the protocols as set forth in the April 23 version submitted to your agency; they are annexed to our recent Summary Report and Preferred Remedy.

We believe the most appropriate forum to address this technical disagreement is during EPA, peer, and public review that will be conducted pursuant to Stage 2 of the CAFO. Following this review process, we will engage in at least sixty (60) days of negotiations, guided by the factors and conditions set forth in the CAFO. We think that this offers the best opportunity for resolving issues concerning air testing, response measures, and risk management protocols.

We thank you and your staff again for the hard work you have dedicated to this effort over the past few years. Our common goal is to develop effective and practical measures to improve the school environment for our students and staff.

Sincerely yours,



Kathleen Grimm

cc: Daniel Greene, NYC Law Department  
Lorraine Grillo, President and CEO, School Construction Authority  
John Shea, Chief Executive Officer, Division of School Facilities  
Elizabeth Rose, Chief of Staff, Division of Operations

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